IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No. 895 of 2005
In
Notice of Motion No. 2591 of 2005
In
Suit No. 2426 of 2005

Shri Shashikant Padamshi Mehta .. Appellant
V/s.
Shri. Chandrakant S. Shah & Anr. .. Respondents

Mr. A.S. Rai i/b. Mr. Jose George for the Appellant
Mr. K. Setalwad i/b. M/s. Vimal & Co. for the Respondents

CORAM : DR. S. RADHAKRISHNAN &
S.C. DHARMADHIKARI, JJ.
DATED : 24.10.2005.

P.C.:-

1. Heard the learned counsel for the Appellant and the Respondents. By this Appeal, the Appellant is challenging the order dated 14.9.2005 passed by the learned Single Judge, which is an ad-interim order, by which, the learned Single Judge had appointed Court Receiver, High Court, Bombay in respect of Suit property with a direction to the Plaintiff to deposit a sum of Rs. 10,00,000/- (Rs. Ten Lakhs Only) with the Prothonotary and Senior Master, High Court, Bombay and the Court Receiver to take charge of the premises and appoint the Defendant as the Agent without payment of security and payment of any royalty.

2. After hearing the parties for some time, both the learned counsel consent for setting aside of the above order with only a limited relief that there shall be an injunction in terms of prayer clause (a), except the

bracketed portion, during the pendency of the above Notice of Motion. As such the prayer clause (a) in the Notice of Motion, reads as under:-

> "(a) that pending the hearing and final disposal of the suit, this Hon'ble Court by an Order and injunction may be pleased to restrain the Defendant by himself, his agents and servants, from in any manner disposing of, alienating, encumbering, transferring or parting with the possession of the said Flat No. 73 and the said Shares i.e. the said suit premise described in Exhibit "A" to the Plaint and/or inducting any third person therein or creating any third party rights therein or in any part thereof whatsoever."

3. The Notice of Motion will be heard strictly on it's own merits and in accordance with law. The Respondent is at liberty to withdraw the said sum of Rs. 10,00,000/- (Rs. Ten Lakhs only), deposited in this Court pursuant to the said order dated 14.9.2005. It is made clear that this order is without prejudice to the rights and contentions of both the parties.

4. Appeal stands disposed of accordingly.

(DR. S. RADHAKRISHNAN, J.)

(S.C. DHARMADHIKARI, J.)